

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Ameren Illinois Company)	
d/b/a Ameren Illinois)	
)	Docket No. 13-0192
Proposed General Increase in Gas Rates)	
)	

BRIEF ON EXCEPTIONS OF THE CITIZENS UTILITY BOARD

THE CITIZENS UTILITY BOARD
Julie Soderna, Director of Litigation
Christie Hicks, Senior Attorney
309 W. Washington, Ste. 800
Chicago, Illinois 60606
(312) 263-4282

TABLE OF CONTENTS

I.	INTRODUCTION	1
IV.	RATE BASE.....	2
B.	ADIT – Step-Up Basis Metro.....	2
II.	OPERATING REVENUES AND EXPENSES.....	4
D.	Forecasted Labor Expense	4
E.	Forecasted Non-Labor Expenses.....	6
3.	Accelerated Leak Repairs	6
4.	Right-Of-Way Clearing	7
5.	Watch and Protect Damage Prevention	8
I.	Sponsorship Expense	9
J.	Credit Card Expenses.....	11
L.	Revenue Issue.....	16
VIII.	SVT PROGRAM	18
B.	Contested Issues	18
1.	Approval of SVT	18
3.	Consumer Protections.....	21
X.	CONCLUSION.....	31

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Ameren Illinois Company)	
d/b/a Ameren Illinois)	
)	Docket No. 13-0192
Proposed General Increase in Gas Rates)	
)	

BRIEF ON EXCEPTIONS OF THE CITIZENS UTILITY BOARD

Now comes the Citizens Utility Board (“CUB”), pursuant to Rules of Practice of the Illinois Commerce Commission (“ICC” or “the Commission”), 83 Ill. Admin. Code Part 200.830, and pursuant to the briefing schedule established by the Administrative Law Judges (“ALJs”), to herby file this Brief on Exceptions in the above-captioned proceeding.

I. INTRODUCTION

The ALJ Proposed Order of November 14, 2013 (“Proposed Order” or “PO”) correctly disallows certain expenses of Ameren Illinois Company (“Ameren,” “AIC” or “the Company”) that were not supported by the record; for example, CWC pass-through tax lead days, non-union wages, charitable contributions, and forecasted advertising. However, for other costs, such as Accumulated Deferred Income Taxes (“ADIT”) – Step-Up Basis Metro, certain forecasted Labor and Non-Labor Expenses, and Non-Residential Revenues, the Proposed Order improperly rejects record evidence demonstrating the unreasonableness of the proposed costs. The Proposed Order also rejects CUB’s reasonable and well-supported proposals to add certain narrowly-tailored consumer protections to a small volume transportation gas choice program. These consumer protections are necessary to protect residential customers from the documented marketing abuses seen in the Northern Illinois gas market. For the reasons stated below, the Commission should modify the Proposed Order in accordance with the exceptions language provided herein.

IV. RATE BASE

B. ADIT – Step-Up Basis Metro

The record evidence in this case, which includes additional support not considered in ICC Dockets 12-0001 or 12-0293, demonstrates that the transfer of assets between Union Electric to CIPS resulted in the value of the assets included in the rate base of CIPS being greater than the assets had been when on the books of Union Electric. AG/CUB Ex. 1.0 at 5:108-11. The Proposed Order is incorrect that the evidence presented in this case consists of “conflicting testimony about rate base impacts” resulting from the transaction over time. There is no disagreement that when Union Electric’s assets were transferred to CIPS, the ADIT on UE’s books did not follow the assets, effectively increasing the value of those assets in CIPS’s rate base. *See Ameren Init. Br.* at 8. Ameren attempted to divert attention from that agreement by arguing that the long-term ADIT impact had “turned around” the effect of the step-up of the value of the assets on CIPS’s books. *Ameren Init. Br.* at 9. However, as explained in the CUB Reply Brief, the so-called “benefit” (which is actually just normal accounting) Ameren discusses that it argues offsets the initial ADIT impacts of the transaction is owed to ratepayers *in addition to* eliminating the deferred tax asset at issue. *CUB Reply Br.* at 3. The Proposed Order’s statement regarding “conflicting testimony” accepts Ameren’s argument that this adjustment is an either/or proposition – that either the AG/CUB and Staff adjustment is appropriate, or the long-term ADIT impact should be acknowledged. In reality, however, the rate base should be appropriately set *and* the “new ADIT” should be counted.

The Proposed Order need not be concerned about Ameren’s arguments regarding “Double-Counting ADIT—Giving Ratepayers an Undeserved Windfall.” *Ameren Init. Br.* at 9. As explained above, the AG/CUB and Staff adjustment is not double-counting – it sets an

appropriate rate base, and allows normal accounting procedures to continue. Both actions are necessary in order for rates to be just and reasonable. As CUB has explained previously, ratepayers should not receive only one part of the benefit they are owed. CUB provided the following example as an analogy for Ameren's proposition in this case. John Doe owns a house in Shadyville. Shadyville charges a 2% tax rate on homes, and John Doe's home was assessed at \$100,000 last year, so he paid \$2,000 in taxes. This year, Shadyville lowered its tax rate to 1%. But, when John sent his check for \$1,000, Shadyville sent it back, and said he owed \$1,500 because his home was now valued at \$150,000. John could not believe that his home had increased so much and disputed his home's value. Shadyville told John that he was right- his home was still only worth \$100,000. But, they said, since he was paying less in taxes than he did last year, he should stop complaining.

Like John, ratepayers should not receive only one part of the benefit they are owed. The asset's value should be appropriately set, and the tax treatment should be appropriate. Ameren admits that the transfer resulted in an increase in rate base. Ameren Init. Br. at 9. That cannot be ignored simply because other, normal accounting practices result in decreases to rate base by other means. The transfer of assets should not result in an increase to the net value of the assets included in rate base. AG/CUB Ex. 1.0 at 6:133-7:135. Ameren admits that such an increase did occur, and the Commission should adjust the Company's rate base to correct the effect of that ratemaking inequity.

The Proposed Order references the Commission's findings in ICC Dockets 12-0001 and 12-0293, where the Commission allowed the Company to include the deferred tax debit balances related to tax depreciation step-up basis metro in the electric rate base. PO at 14. The Proposed Order is incorrect that the AG, CUB and Staff adjustment represents a result "opposite of that"

reached in those dockets. *Id.* However, in those cases, the ADIT that had existed before the transfer were, in effect, reduced to zero, and the Commission did not address the propriety of the net-of-tax value of the assets increasing as a result of the transfer. AG/CUB Ex. 2.0 at 6:131-133. The Proposed Order’s apparent concern about needing “sufficient” evidence to support a result “opposite” of that reached in Docket Nos. 12-0001 and 12-0293 is unfounded.

CUB therefore respectfully requests that the Commission make the following revisions to the Commission Conclusion on page 14 of the Proposed Order:

Exception No. 1:

The Commission observes that its conclusions in Docket Nos. 12-0001 and 12-0293 did not address the propriety of the net-of-tax value of the assets increasing as a result of the transfer ~~involved the same basic issue as is before the Commission in the current docket—whether an adjustment to ADIT should be made to offset the effects of the stepped-up basis in the assets associated with the Metro East asset transfer in 2005 which was approved, along with accounting treatment, in Docket No. 03-0657.~~

Having reviewed the record in this proceeding as well as the findings in the prior two Orders, the Commission is ~~not~~ persuaded that the additional evidence demonstrates that (1) the asset’s value should be appropriately set, and (2) the tax treatment should be appropriate; ~~which largely consists of conflicting testimony about rate base impacts resulting from the 2005 transaction over time—i.e. to date and prospectively—is sufficient to support a result opposite of that reached by the Commission in Docket Nos. 12-0001 and 12-0293. Accordingly, the adjustment proposed by Staff and AG/CUB will not be adopted in this Order.~~

II. OPERATING REVENUES AND EXPENSES

D. Forecasted Labor Expense

The Proposed Order acknowledges that the Company’s documentation supporting its forecasted labor expense was wanting. PO at 33. Nonetheless, the Proposed Order accepts the Company’s forecast, simply directing it to “improve its documentation in the future.” *Id.* The

Commission cannot simply ignore the insufficient evidence presented in this docket. Ameren utilities bears the burden of proof to establish the justness and reasonableness of rates (220 ILCS 5/9-201(c)), and may only recover actual costs of delivery services that are “prudently incurred and reasonable in amount consistent with Commission practice and law.” 220 ILCS 5/16-108.5(c)(1). The evidence presented by Mr. Brosch raised serious questions about the necessity of adding beyond his recommended level of 43 new employees in the test year. His concerns were well-founded – while the Proposed Order claims that “AIC did explain the reasons for the types and numbers of additional positions,” (Proposed Order at 33), in actuality, the Company did *not* explain how these needs differ from the Company’s current level of operations. AG/CUB Ex. 5.0 at 26:640-43. Despite Ameren’s failure to demonstrate the reasonableness of the challenged staffing levels, Mr. Brosch’s recommended allowed for 43 new employees – a level that allows the Company to make progress toward the activities they identified, but acknowledges that the Company did not meet its burden to prove a need beyond that. The Company did demonstrate that the additional 43 employees proposed by AG/CUB, along with the Company’s current Staff, (under which Ameren has been performing adequately across all performance measures tracked presently and has been providing safe and reliable gas service (Ameren Init. Br. at 25)), cannot adequately handle the additional work Ameren has planned.

To correct the errors in the Proposed Order with respect to the forecasted labor calculation, CUB respectfully submits the following revisions to the Commission Conclusion on page 33 of the Proposed Order:

Exception No. 2:

Upon reviewing the record, the Commission agrees with the analysis and recommendation of CUB and the AG Commission Staff as articulated in its testimony and briefs and as described above.

~~While~~ The Commission recognizes that the Company's forecast documentation was not as easy to comprehend as it could have been, as discussed below, ~~the Commission agrees with Staff that Mr. Brosch's adjustment should not be adopted. As Staff indicated, Mr. Brosch-Ameren~~ did not identify any specific activities that he considers to be unnecessary for the Company to perform; therefore, ~~he does not associate any of the Company's proposed increases in gas only positions with unnecessary activities.~~ cannot be adequately handled by its current level of staffing, plus the additional 43 employees proposed by CUB and the AG. The Commission observes that in the course of the proceeding, AIC did attempt to explain the reasons for the types and numbers of additional positions, and did provide information as to the status and accuracy of those forecasts but it did not meet its burden to show that the activities it seeks to perform in the test year differ so vastly from its current operations that more than 43 new employees, plus current staffing, cannot handle them.

The Commission ~~also~~ agrees with Staff that based on the testimony by Mr. Brosch, it is evident that the Company's forecast documentation, while not deficient from a standard filing requirement standpoint, was not as complete or as easy to comprehend as it could have or should have been. In that regard, the Commission also recognizes the Company's commitment to improve its documentation in the future. The Commission expects that the Company will make the improvements as indicated, and hereby directs the Company to do so.

E. Forecasted Non-Labor Expenses

3. Accelerated Leak Repairs

The Proposed Order incorrectly finds that the proposal of AG/CUB, to use the mid-points of Ameren's own projections of the number of repairs it will make in the test year, would not resolve the current backlog of open leaks. PO at 38. The Company forecasted repairing between 100 and 150 service tee cap leaks and between 350 to 450 mains/services repairs. Ameren Ex. 22.0(Rev.) at 27:601-08, AG/CUB Ex. 5.0 at 35:860-62. Mr. Brosch's adjustment simply uses the mid-points of those targets. The Commission should not allow the Company to collect from ratepayers for repairs it is unlikely, by its own projections, to actually complete in the test year.

CUB requests that the Commission amend the Proposed Order at 38 as follows:

Exception No. 3:

The parties who addressed the issue agree that repairing distribution leaks, including leaking mains and services, requires increased attention.

The AG and CUB do not dispute the importance of performing additional leak repairs or the estimated per-repair cost.

The AG and CUB do, however, take issue with the volume or number of test-year leak repairs.

Having reviewed the record, the Commission finds that ~~repair volumes in AIC's~~ the adjustment proposed by CUB and the AG forecasts appears reasonable. As indicated above, the evidence indicates that new leaks, and open leaks at year-end, have been increasing. The AG/CUB adjustment allows AIC to increase its efforts to repair leaks, while adjusting the AIC forecast to a more reasonable level. ~~The record supports AIC's argument that its projected expense will enable it to keep pace with the number of new leaks each year, and to make progress toward resolving the current backlog of open leaks; whereas the volume of repairs assumed in the CUB/AG proposal is not likely to address the backlog.~~

4. Right-Of-Way Clearing

Ameren's per-mile cost for right-of-way clearing ("ROW") in 2009 was ten times higher than in 2010. AG/CUB Ex. 5.0 at 38:943-944. Despite that, the Proposed Order allows Ameren to rely on an average of 2009 and 2010 costs in projecting its test-year per-mile costs. PO at 41-42. Because the AG/CUB proposal does not include data from the outlier year 2009, the AG/CUB proposal represents a reduction from Ameren's proposal, though the AG/CUB proposal does allow for a significant increase over the Company's 2010 and 2011 ROW spending. The Proposed Order provides no rationale for its conclusion that Ameren's proposed per-mile cost is reasonable aside from the fact that Ameren's proposal is significantly less than its per-mile costs in 2007 and 2008. That fact alone is not justification for a per-mile cost

projection that is considerably higher than costs in more recent years. Therefore, CUB requests that the Commission adopt the following revisions to the Proposed Order at 41-42:

Exception No. 4:

As indicated above, AIC and AG/CUB are in disagreement over the test-year cost per mile for HPD right of way clearing of wooded areas. ~~Although~~ The AG and CUB take issue with AIC's use of ~~an~~ cost per mile based on an average of 2009 and 2010 costs, and base their proposal on the more recent years of 2010 and 2011. ~~AIC's contention has shown~~ that the cost per mile in its proposal is significantly less than the cost per mile in both 2007 and 2008 is not, alone, justification for AIC's forecast. As such, AIC has ~~not~~ given disproportionate weight to 2009, an outlier year. The Commission finds that the cost per mile in AIC's AG/CUB's forecast is reasonable.

5. Watch and Protect Damage Prevention

The Proposed Order concludes that, of the two competing estimates in the record, AIC's is better supported by the record. PO at 43. The AG/CUB adjustment provides for full recovery of the costs for eight full time Ameren employees to administer the costs of the program. AG/CUB Ex. 5.0 at 41:1021-1022. The AG/CUB adjustment is based on actual, historical spending, and in fact exceeds actual 2012 spending by about 13 percent. *Id.* at 42:1031-1042. The AG/CUB adjustment allows for a reasonable escalation of these costs, while protecting ratepayers from unjust rates based on inflated cost projections. Therefore, CUB respectfully requests that the Commission amend the Proposed Order at 43 as follows:

Exception No. 5:

At issue is the estimated outside contractor cost per stand-by event. Of the two competing estimates, the one proposed by ~~AIC~~ CUB and the AG, which is based on actual, historical spending, appears to be better supported by the record ~~which includes the most recent contractor data from 2013, such as stand-by invoices in 2013; the negotiated stand-by base rates; the applicable wage and benefit premium; and the actual 2013 average stand-by time.~~

I. Sponsorship Expense

Though the sponsorship expenses for which Ameren seeks recovery in this case are virtually identical to those in Ameren's pending electric formula rate case, ICC Docket No. 13-0301, the Proposed Order in this case comes to a very different conclusion on those expenses than the Proposed Order in Docket No. 13-0301. PO at 73-74, *compare* ICC Docket 13-0301, Proposed Order of November 14, 2013 ("*13-0301 Proposed Order*") at 76-78. Given that the expenses at issue are identical, the Commission should make consistent findings between Ameren's gas and electric rate cases. The analysis and conclusions in the *13-0301 Proposed Order* should be adopted by the Commission in both cases. That Proposed Order conducted an evaluation of each sponsorship expense for which Ameren sought recovery, and disallowed recovery for those expenses whose purpose was promotional, goodwill and/or institutional (consistent with 220 ILCS 5/9-225). *Id.* For example, expenses such as the Company's sponsorship of a "Fireworks Celebration" in Pekin, Illinois (Ameren Ex. 35.1 at 8) and the Company's sponsorship of a "Santa Claus Parade Under the Sea Float" (Ameren Ex. 35.1 at 9) have no place in rates.

In both this case and Docket No. 13-0301, the Commission should reject (as the *13-0301 Proposed Order* at 76 recommends) Ameren's claims that most of expenses are recoverable charitable donations under Section 9-227. The *13-0301 Proposed Order* is correct that such claims would essentially nullify the prohibition in Section 9-225 on recovery of promotional, goodwill and/or institutional advertising.

The Company is free to continue spending as much as it likes on its sponsorships, but it may not recover those that are promotional, goodwill or institutional in nature from ratepayers. Given "AIC's mission to enhance the quality of life in local communities," (Ameren Init. Br. at

64) the Company should be more than happy to use shareholder dollars to fund the activities it deems worthy of sponsoring.

The Commission should adopt the reasonable reduction proposed by AG/CUB, which applied the same percentage recoverability as was used in the Commission's order in docket 12-0293, a 22.4% recoverability rate. AG/CUB Ex. 5.0 at 55:1365-66. CUB respectfully requests that the Commission revise the Proposed Order at 73-74 as follows:

Exception No. 6:

AIC seeks to recover a forecasted \$133,000 for 2014 sponsorship expenses. This amount reflects removal by AIC of \$25,519 in sponsorship expense from its proposed gas revenue requirement.

The AG and CUB propose that AIC be allowed to recover an amount of just under \$30,000 based on AIC's reliance on the itemization of sponsorship costs presented in Docket No. 12-0293, and the Commission's disallowance in Docket No. 12-0293 of 77% of the event sponsorship costs incurred by the Company in 2011, based upon the Commission's examination of those costs.

Staff proposes to disallow approximately \$74,000 of costs associated with corporate sponsorships. In Staff's view, the relevant criterion should be whether such sponsorships are statutorily impermissible promotional or goodwill advertising under Sec. 9-225(2) of the Act.

Section 9-225(2) of the Act provides, "In any general rate increase requested by any gas, electric, water, or sewer utility company under the provisions of this Act, the Commission shall not consider, for the purpose of determining any rate, charge or classification of costs, any direct or indirect expenditures for promotional, political, institutional or goodwill advertising, unless the Commission finds the advertising to be in the best interest of the Consumer or authorized as provided pursuant to subsection 3 of this Section."

For reasons explained in its initial brief, AIC argues that its current proposal is consistent with the Commission's analysis and findings in its recent Order in the Peoples/North Shore rate case in Docket Nos. 12-0511/0512 (Cons.), where the Commission found, in part, that that "the recipients of these sponsorships are either charitable

organizations or organizations providing public welfare or educational services in the Utilities' service territory" and that these contributions were made to support fundraising events for local charities and communities in the Utilities' service territory and not primarily to promote the Utilities or foster goodwill towards the Utilities.

~~In reply briefs, Staff did not respond to these arguments by AIC, and the response from other parties was very limited. The Commission finds that AIC's proposal meets the criteria described in the Order in Docket Nos. 12-0511/0512 (Cons.), and should be allowed.~~

Staff and CUB have identified numerous expenses that they argue are inappropriate for recovery. The Commission agrees that a number of the expenses for which AIC seeks recovery appear to have no purpose other than promotional, goodwill, and/or institutional advertising. Undoubtedly, AIC will claim that the disallowed expenses are recoverable charitable donations under Section 9-227. The overall problem with AIC's analysis, however, is that it gives no meaning to the prohibition in Section 9-225 of recovery of promotional, goodwill, and/or institutional advertising. Surely the legislature did not intend for certain expenses to be unrecoverable under Section 9-225, only to allow all such expenses to then be deemed recoverable under Section 9-227.

The Commission finds the expenses identified by AG/CUB and Staff are unrecoverable because the nature of the recipient is not clear (eg: "Lightworks") and/or the charitable nature of the event is not discernible (eg: Punkin Chuckin). There is also no evidence from Ameren Ex. 35.1 of any educational or other permissible messaging. The only discernible purpose behind the expenditures is promotional, goodwill, and/or institutional. Such details, or where applicable the lack thereof, distinguish this record from that in Docket Nos. 12-0511 and 12-0512 (Cons.).

J. Credit Card Expenses

As was the case with Ameren's Sponsorships expense, discussed above, the Proposed Order in this proceeding allows many of the identical or very similar credit card expenses currently at issue in Ameren's electric formula rate case, ICC Docket No. 13-0301. PO at 79. As such, the Commission should adopt similar conclusions in that docket and the instant case.

For example, in both cases, Ameren requests recovery for floral arrangements. The Proposed Order in this case would have the Commission allow ratepayer recovery of such an expense. *Id.* The *13-0301 Proposed Order*, on the other hand, disallows such expenses. ICC Docket 13-0301, Proposed Order of November 14, 2013 at 69. The Commission simply cannot find that floral arrangements for funerals and similar, discretionary expenses are “just and reasonably related to the provision of delivery services.” Ameren Init. Br. at 67. The Commission should adopt the adjustments proposed by Ms. Pearce, who performed an individualized analysis of credit card charges by Ameren employees (Staff Ex. 13.0 at 15:346-17:382) and should make findings consistent with those in the *13-0301 Proposed Order*.

CUB requests that the Commission adopt the following revisions to the Proposed Order at 78-79:

Exception No. 7:

In Docket No. 12-0293, the Commission noted that in 2011, AIC employees collectively charged approximately \$102,225 on their P-Cards, then known as P-Cards.

The Commission allowed charges “conceivably related” to delivery service, while disallowing other charges totaling \$10,266.09 absent better support.

On page 67 of its Order in Docket No. 12-0293, the Commission stated that “in light of some of the descriptions included in Attachment A to Staff Ex. 8.0R-C and given the nature of some of the retailers at which the P-Card was used, the Commission has identified some specific P-Card purchases which it finds questionable.” The Commission added, “The listed P-Card charges are questionable because the expenses at some retailers are arguably excessive and/or not reasonably related to the provisioning of delivery services. In the absence of better support for these charges, the Commission finds that recovery from delivery service customers is unreasonable.”

In the instant case, AIC argues that it has provided better support for the credit card charges by establishing the business-related

justification for each of the disputed credit card charges. In addition to testimony, AIC presented a schedule, Exhibit 28.1, which identifies the report number, vendor and amount for each expense, and provides an explanation of and expense type or category for each item.

As indicated above, In Docket No. 12-0293, the Commission found that some charges were “questionable because the expenses at some retailers are arguably excessive and/or not reasonably related to the provisioning of delivery services.”

In the instant case, ~~Staff characterizes many disputed purchases as “arguably excessive.” However, there is no allegation or indication that the items could have or should have been obtained at a lower cost. numerous expenses for which Ameren seeks recovery are not~~ reasonably related to the provision of delivery services.

~~With respect to whether the expense is “reasonably related to the provisioning of delivery services,” AIC argues that Staff is using a different standard—whether the charge is “unnecessary for the provision of utility service.”~~

~~Having reviewed the record, it appears to the Commission that AIC has provided better support for the charges than it did in Docket No. 12-0293. Except as noted below, the Commission believes AIC has shown that the expense types and purposes identified in AIC’s evidence—such as Storm Response and Preparedness, and Safety Work Meetings—and the specific activities taken within those categories and the context of those activities, are reasonably related to the provision of utility service. To the extent Staff may have concerns with some of the expense categories, Staff has not really indicated why these expense types or categories are ineligible to meet that standard.~~

AIC has not explained why credit card payment of \$701 for McLean County Chamber dues in the “Other Charges” category is reasonably related to the provision of utility service. Staff’s position with regard to this expenditure should be adopted. The Commission notes, however, that amount in question is too small to affect the schedules that reflect operating expenses in revenue requirement.

~~The Commission wishes to emphasize that the findings on this issue in the instant order are based on the record in this proceeding, which in Staff’s case may be somewhat more limited than in some~~

~~other proceedings, and are not intended to create any presumptions in other dockets with different records.~~

Staff recommends disallowing a variety expenses, mostly following into the broad categories of: flowers; new employee gifts; lunches, cakes, snacks, donuts and decorations for parties, meetings and celebrations; lunch and drinks for attorneys; cell phones, DVD players, flat screen televisions, satellite TV service; clothing with the Ameren logo, and finance charges for cash advances on the AIC credit card. Staff Init. Br. at 24-25. E

Employee perquisites, some of which are essentially snacks served during meetings and door prizes for attendees, are excessive and inappropriate for recovery by a regulated monopoly. AIC is free to continue such practices, but not at the expense of customers. If shareholders want employees to have turkey fryers and patio sets, they can pay for them.

Another category of expenses to which Staff objects consists of flowers sent to ill employees or upon the death of an employee or close family member. The Commission does not question whether sending flowers is a nice gesture. But, if AIC truly cared in such situations, it seems obvious and logical that any sacrifice/contribution for such a gesture would come from the caring individuals (ie: shareholders, executives, co-workers) that are sympathetic toward the affected employee and family. Under the current practice, however, AIC collects money from customers, buys flowers, and tells the recipient that the flowers are "from" AIC. This practice is analogous to taking flowers from the park one passes on the way to the funeral home so that a flowery display of sympathy can be made before the casket. If AIC wishes to continue sending flowers to ill employees or upon the death of an employee or close family member, shareholders or co-workers should be responsible for covering the cost.

Staff also objects to recovery of expenses to Dish Network and Comcast for television service. It is not clear why radio, local broadcast television, and the internet are not sufficient means of obtaining weather and news reports. If AIC wants employees at particular locations to have year-round cable or satellite television service on top of radio, local broadcast television, and/or internet access, shareholders can pay for it.

As was the case in Docket No. 12-0293, the Commission is troubled by AIC's view of its employees' credit card use. Like before, there do not appear to be any definitive standards for

reviewing and evaluating employee credit card purchases. Nor does there appear to be any per diem limitation concerning travel expenses. So long as some aspect of the charge is arguably related to something the utility does, AIC seems to believe that recovery of the expense from ratepayers is appropriate. AIC's main underlying concern appears to be the impact that an adverse ruling may have on its business practices.

AIC is right to be concerned because its credit card policy calls into question the prudence of its spending decisions. The underlying issue giving rise to this problem appears to stem from a corporate culture where employee perquisites and broad discretion on what is reasonable and necessary for business are the norm. As was pointed out by the Commission in Docket No. 12-0293, although such expenses may be permissible, or even usual, in an unregulated business that competes with other unregulated businesses for customers, the expenses are not appropriate for regulated rate recovery since AIC customers have no choice but to obtain delivery services from AIC. Captive delivery service customers can not shop around for another delivery service provider that is more responsible with its revenue. Later in this Order AIC's concern with its reputation and appearance in various media will be discussed. Given such concern, AIC would be wise to consider the public perception of its insistence that customers pay for donuts, snacks, cupcakes for executive staff, drinks for lawyers, anniversary cake, etc. AIC may want to consider the appropriateness of a corporate culture where spending decisions are based on the assumption that nearly all expenses can be recovered by customers.

~~With regard to the credit card issue, the Commission also notes that its “primary concern” as stated on page 69 of the Order in Docket No. 12-0293 was “the apparent lack of controls over P-Card usage.” To ensure that~~ The Commission notes that AIC has made the filing required in Docket No. 12-0293 to ensure that, going forward, AIC implements reasonable usage restrictions on P-Cards. ~~¶~~ The Commission required AIC “to submit for approval its internal controls on P-Card usage within 45 days of the entry of this Order. Such a filing shall take the form of a petition with the usage limitations and supporting testimony attached.”

AIC filed such a petition in Docket No. 13-0075, and that proceeding is in progress. The Commission believes that the process ultimately approved in Docket 13-0075 should largely eliminate most or all of the credit card-related issues that have been debated repeatedly in recent AIC rate cases.

L. Revenue Issue

The Proposed Order seemingly accepts Ameren's arguments that Mr. Effron's adjustment ignored the effects of the Commercial and Public Authority categories of non-residential revenues. *See* PO at 93. As explained in CUB and the AG's briefs, as well as the testimony of Mr. Effron, Mr. Effron's analyzed the forecasted test-year sales each customer class in comparison to actual weather-normalized sales in 2010-2012. AG/CUB Ex. 6.0 at 5:18-6:5. Based on that review, he concluded that the forecasted test year sales to Commercial and Public Authority customers were reasonable. *Id.* at 5:15-16. Because no adjustment was necessary to those forecasts, Mr. Effron excluded them from his analysis. *Id.* at 6:6-13. Mr. Effron's analysis then appropriately focused on the Industrial and Transportation classes. The Company's forecasted revenues from those customers were unreasonable. AG/CUB Ex. 2.0 at 12:246-55.

The Company relies on "offsets" from other categories to justify the fact that it advocates for revenues to be set at a lower level than it actually expects to receive. Ameren Init. Br. at 73. The Commission should not rely on supposed "offsets" from other classes to justify accepting an unreasonably low forecast. Mr. Effron demonstrated that the 23% decrease in sales the Company predicts in the Industrial and Transportation classes is not actually taking place. *Id.* at 13:269-71.

There is no dispute that the decrease discussed by Mr. Effron will occur. The only issue is whether "offsets" from other sources justify overlooking that fact. As discussed earlier, Mr. Effron found the Company's forecasts to Commercial and Public Authorities revenues to be reasonable. He did not recommend any adjustment to those revenues. Aggregation of all non-residential base rate revenues is therefore not necessary or appropriate. Mr. Effron focused on the Industrial and Transportation revenues because they increased substantially from the first

four months of 2012 to the first four months of 2013. AG/CUB Ex. 2.0 at 13: 274-77. Industrial system sales increased from 37,959,000 therms in the first four months of 2012 to 51,585,000 therms in the first four months of 2013. *Id.* at 13:278-79. Transportation revenues increased from \$12,157,000 in the first four months of 2012 to \$14,174,000 in the first four months of 2013. *Id.* at 13:279-81. Mr. Effron therefore proposed a reasonable adjustment based on the actual industrial and transportation revenues for the twelve months ended June 30, 2013 to the forecasted test year revenues, and he revised his analysis based on the customer classifications provided by the Company in rebuttal. AG/CUB Ex. 6.0 at 4:18-21, 6:10-16.

Mr. Effron's adjustment of a net increase to the Company's test year base rate revenues (under present rates) of \$4,092,000 is necessary and reasonable. AG/CUB Ex. 6.0 at 5:4-9, *citing* AG/CUB Ex. 6.1, Schedule DJE-2R.

The Proposed Order at 94 should be modified as follows:

Exception No. 8:

~~The Commission has carefully reviewed the positions of the parties on this issue. As an initial matter, the Commission agrees with Staff that if an adjustment were warranted, the appropriate adjustment would be to the billing determinants used to calculate rates rather than to the revenues to be recovered. An adjustment to the revenues would not change the total test year revenue requirement to be recovered. Instead, the Commission believes, as suggested by Staff, that it would merely produce offsetting changes in the amount of test year revenues at present rates and the amount of the increase necessary to produce test year revenues at proposed rates.~~

~~It is not clear to the Commission how the AG and CUB may reasonably conclude that the changes in revenues for the Industrial and Transportation rate classes are significant and that the changes for the Commercial and Public Authority rate classes are not significant. It appears to the Commission that the data used in the table in Ms. Althoff's surrebuttal testimony for the Industrial and Transportation rate classes are the same that used by Mr. Effron for his proposed adjustment. Additionally, the Commission does not~~

~~find that the AG or CUB offered an adequate reason for discarding~~
~~We need not review the data for Commercial and Public Authority~~
~~rate classes, when the data for all rate classes appears to come from~~
~~the same source, which no party contends is unreasonable. All~~
~~parties also seem to agree that the decrease discussed by Mr.~~
~~Effron will occur. The only issue is whether “offsets” from other~~
~~sources justify overlooking that fact. We cannot base rates on~~
~~revenue forecasts that even AIC itself agrees are incorrect, no~~
~~matter what other factors are at play. Given the evidence in the~~
~~record presented by CUB and the AG, we adopt their proposal.~~

~~The Commission finds the arguments regarding nonresidential~~
~~customers switching between transportation and sales classes to be~~
~~reasonable and supported by the record. As a result, the~~
~~Commission concludes that it is appropriate to review AIC~~
~~revenues for all nonresidential rate classes as a whole rather~~
~~limiting the review to two rate classes as the AG and CUB suggest.~~
~~The Commission believes the basis for AG/CUB's proposed~~
~~adjustment to nonresidential revenues is not supported by the~~
~~record and their proposed adjustment should not be adopted. The~~
~~Commission finds the billing determinants as reflected in AIC's~~
~~Schedule E-5 are reasonable and should be used for purposes of~~
~~setting rates for the test year.~~

VIII. SVT PROGRAM

B. Contested Issues

1. Approval of SVT

The Proposed Order presumes that the Commission has pre-judged the propriety of moving forward with a Small Volume Transportation (“SVT”) program in Ameren territory, in stating that “SVT programs in Illinois have been the subject of discussion, experimentation and implementation. Arguably, the time for further debate has passed with regard to the AIC territory.” PO at 236. The Proposed Order ultimately concludes that an SVT program in Ameren territory is in the public interest and should move forward, and that “the potential benefits of an SVT program in AIC's service territory, while not certain, are likely.” *Id.* The analysis in the Proposed Order does not reveal a thorough review of the evidence in light of the unchallenged legal standards, and instead relies on general policy proclamations like regulation

is an “imperfect substitute for regulation,” and that “the Commission favors competition over regulation where feasible.” *Id.* The Proposed Order does not cite to the specific evidence upon which it relied on to conclude that benefits are likely to result from an SVT program.

As CUB argued in its Initial and Reply Briefs, the Commission is obligated by law to consider the impacts of any proposed rate or service on customers. CUB Init. Br. at 32-33; CUB Reply Br. at 24. Illinois courts have held that to reach a just and reasonable determination, the Commission must analyze the impact on consumers. *See Abbott Laboratories v. Illinois Commerce Comm’n*, 682 N.E.2d 340, 350 (Ill. App. Ct. 1st Dist. 1997); *Citizens Utility Board v. Illinois Commerce Comm’n*, 658 N.E.2d 1194, 1201 (Ill. App. Ct. 1st Dist. 1995). In that vein, the Commission recently concluded, in analyzing Nicor’s proposed Purchase of Receivables tariff, that, “semantics aside, the bottom line is that there must be some Commission analysis, test or weighing of interests to determine whether a proposed rider is just and reasonable.” *Northern Illinois Gas Company d/b/a Nicor Gas Company*, Proposed Establishment of Rider 17, Purchase of Receivables with Consolidated Billing, ICC Docket No. 12-0569, July 29, 2013 Order at 17. In Docket No. 12-0569, the Commission further concluded that “other than stating that these are potential benefits, there is a distinct lack of evidence in the record that the Commission can rely on to support that these benefits would occur.” *Id.* The Proposed Order did not provide an analysis of the record evidence that would allow a reasonable person to conclude that the benefits alleged by ICEA/RESA and RGS are likely to occur, especially in light of the lack of evidence regarding existing natural gas choice programs in Northern Illinois.

The Proposed Order in this proceeding does not weigh interests, but rather presupposes that the Commission should go forward with a choice program if any potential benefits are recognized. The Proposed Order fails to acknowledge that the Commission, in its Order in

Docket No. 11-0282, made clear that it was not intending to “prejudge whether and to what extent a natural gas retail choice program may be appropriate for AIC.” ICC Docket No. 11-0282, Order at 195 (“*11-0282 Order*”). CUB does not believe the evidence presented in this docket meets the legal standard that requires the Commission to examine the alleged benefits of a gas choice program in light of the significant \$2.12 million annual revenue requirement increase for its implementation.

The supplier groups advocating a gas choice program in Ameren territory (Illinois Competitive Energy Association (“ICEA”)/Retail Energy Supply Association (“RESA”), (collectively, “ICEA/RESA”)) failed to provide any evidence from the existing gas choice marketplace in Northern Illinois with regard to specific offers or tangible evidence of customer benefit resulting from such offers. Such evidence would have provided the Commission with confidence that an SVT program had the propensity to provide Ameren’s customers with benefits that outweigh the costs of implementation. Instead, the supplier groups relied on statistics from Ohio to support the alleged benefits of multiple suppliers in the market. The experience in Ohio is fundamentally distinguishable, however, because of the significantly different regulatory structure in place there, as CUB demonstrated through the testimony of its witness, Mr. Cohen, and in its Reply Brief. CUB Ex. 2.0 at 4-5:83-101; CUB Reply Br. at 26. Furthermore, as Mr. Cohen testified, the experience in Ameren territory with *electric* supply choice, cited by ICEA/RESA witness Wright as support for moving forward with *gas* choice, (ICEA/RESA Ex. 1.0 at 6:112-116), cannot be compared because the vast majority of customers taking competitive electric supply were aggregated through their municipality. CUB Ex. 2.0 at 6:110-121.

In various regulatory contexts, CUB has repeatedly expressed significant concerns with regard to the existing gas choice program in Northern Illinois, not because of a philosophical objection to competitive markets, but because of well-documented marketing abuses experienced in Illinois to date, as well as a lack of demonstrated customer benefits. CUB Ex. 1.0 at 5:85-105; *see also 11-0282 Order* at 188; *see generally Citizens Utility Board, Citizens Action/Illinois and AARP vs. Illinois Energy Savings, Corp. d/b/a U.S. Energy Savings Corp.*, Complaint pursuant to 220 ILCS 5/19-110 or 19-115, ICC Docket No. 08-0175. Those concerns extend here, as gas suppliers seek to expand gas choice into Ameren territory where customers do not have experience with gas choice. CUB does not want to see the same problems that occurred in the nascent market in Northern Illinois in the territories of Peoples Gas Light & Coke Company (“PGL”) and Northern Illinois Gas Company d/b/a Nicor Gas Company (“Nicor”) occur in Ameren territory. Presumably, neither does the Commission.

Assuming the Commission maintains the Proposed Order’s conclusion that an SVT program should go forward, despite this lack of evidentiary support, it should reexamine the consumer protections recommended by CUB witness Cohen, discussed in the next section, and adopt CUB’s proposed replacement language identified below.

3. Consumer Protections

Mr. Cohen recommends the Commission adopt three consumer protections in its order in this docket, if the Commission determines the evidence supports proceeding with SVT. These consumer protections are largely focused on preventing the type of marketing abuses that have occurred in Northern Illinois, largely a result of door-to-door marketing and use of misleading written marketing materials. CUB Ex. 1.0 at 5:85-105. Those consumer protections are as follows:

- 1) A customer shall be absolved from paying any termination fees if, prior to the due date of their first bill, they notify the supplier that they are terminating the contract.
- 2) When a customer has accepted service from a supplier after solicitation by a door-to-door salesperson, there shall be no termination fees assessed if the customer terminates during the first 6 billing cycles.
- 3) If a supplier's marketing materials include a price comparison of the supplier rate and the gas utility rate, the depiction of such comparison shall display at least three years of data in no greater than quarterly increments and shall also display the supplier's offered price for the same or equivalent product(s) or service(s) for each of the same increments.

CUB Ex. 2.0 at 9-10:196-204. As Mr. Cohen testified, “these consumer protections would address the well-documented problems of misleading marketing seen in Northern Illinois gas choice programs.” *Id.* at 10:206-210. The Commission cannot ignore this adverse experience in determining whether and how to go forward with gas choice in Ameren's territory. While revisions to the Alternative Gas Supplier Law in the Public Utilities Act around 2009, (*see* 220 ILCS 5/19-110-115), provide additional layers of scrutiny to the ARG certification process, these provisions do not directly address the severity of the problems seen with the door-to-door sales model and its potential for customer confusion and/or misleading marketing.

Additional consumer protections are necessary to protect consumers in Ameren territory, considering these customers are novices to gas choice and will be presented with “bundled” products that are difficult to compare and understand. CUB Ex. 2.0 at 6:115-21. The existence of municipal aggregation on the electric side does not provide the type of experience regarding retail energy shopping because municipal aggregation customers did not “shop” for an electric supplier; rather, the choice was made for them by their local government. CUB Ex. 2.0 at 6:110-12. In fact, the pre-existing relationship certain retail electricity suppliers may have with Ameren customers could be the source of additional confusion and/or misleading marketing. *Id.* at 7:134-46. These marketers will be eager to capture additional revenue on the gas side and

may be marketing aggressively, with potentially difficult-to-understand or difficult-to-compare offers. *Id.* Mr. Cohen testified that he sees “no evidence that most residential customers have yet acquired sufficient knowledge and awareness to be smart shoppers in the natural gas market, particularly in light of the many products that Mr. Wright envisions being offered.” CUB Ex. 2.0- at 6:118-121.

The supplier groups (ICEA/RESA and RGS) did not base their objections to the consumer protections on the lack of Commission authority or jurisdiction. Nor did they provide evidence demonstrating that these proposals would be overly burdensome or too costly or difficult to implement. Further, and most importantly, the supplier groups did not allege or argue that these consumer protections would not have the intended effect, which is to reduce or eliminate marketing abuses – not to reduce customer complaints. Neither Staff nor Ameren oppose CUB’s proposed consumer protections. Therefore, there is ample basis for the Commission to include these consumer protections in its final order in this proceeding.

The Proposed Order’s suggestion that, because CUB introduced its consumer protections in rebuttal testimony, ICEA/RESA and RGS did not have an opportunity to rebut such evidence is in error. ICEA/RESA and RGS had ample opportunity to submit discovery requests and offer the responses to those requests into the record, which they did. ICEA/RESA and RGS also had ample opportunity to cross-examine Mr. Cohen with regard to his proposals, and they choose not to. Nor did the supplier groups seek to strike such testimony, a due process right of which they did not avail themselves, and therefore the cited testimony is valid record evidence for Commission consideration. The suppliers cannot now cry foul and the Commission should not intimate that the suppliers late complaints should influence the treatment of that evidence.

Finally, the comments in the Proposed Order's Conclusion with regard to CUB's participation in the workshops, or lack thereof, are inaccurate, unnecessary, and out of place for several reasons. First, CUB did indeed participate in the workshop process; namely, CUB participated in the entirety of the first workshop, in which RESA and ICEA claim that consumer protections were discussed. *See* ICEA/RESA Ex. 3.0 at 7-8:137-146, *see also* RGS Ex. 2.0 at 3:46-51. In fact, those discussions were limited to customer information, not consumer protections, two distinct issues. *Id.* Second, as Staff pointed out, workshops are explicitly designed so as to not bind participants to a particular position or lack of position. Staff Reply Br. at 63. Rather, they are designed to allow participants the freedom to express ideas and opinions that may or may not be advocated in formal proceedings. *Id.* Third, the subject matter and discussions in the workshops are not intended to confine the Commission's authority or obligation to approve only just and reasonable rates and services. In the end, workshops are used to attempt to reach resolution of issues, if possible, but the Commission retains its authority to adopt, reject or modify any of the parties' positions, even when complete resolution between the parties is reached, in compliance with its mandate to approve only just and reasonable rates. 220 ILCS 5/9-101. Thus, the discussion of the Commission's "concerns" about CUB's participation in the SVT workshops is unnecessary and irrelevant and should be deleted.

In accordance with the argument presented above, CUB respectfully requests the Commission make the following modifications to the Proposed Order's Commission Conclusion on pages 236-241:

Exception No. 9:

The threshold issue to be addressed regarding the SVT tariff issue is whether the Commission should order AIC to implement an SVT program in this proceeding. AIC, Staff, ICEA/RESA, and RGS either endorse the implementation of such a program in this

proceeding, or they do not oppose such action. In CUB's view, the Commission should not approve implementation of an SVT program in this proceeding, unless the Commission finds that the benefits to an SVT program outweigh the costs of such a program.

~~The Commission understands that some parties have limited resources and, except for utilities and Staff, it is not the Commission's practice to order parties to participate in workshops. Nevertheless, the Commission believes that in many instances, workshops are an effective way to mitigate the costly and time-consuming litigation process for all stakeholders. As a result, the Commission must express a certain level of concern that CUB chose not participate more actively in the SVT workshop process that the Commission ordered in Docket No. 11-0282.~~

CUB believes the Commission should seek evidence of qualitative and quantitative benefits from SVT programs, how those benefits would be derived, and how the projected benefits compare to projected costs of implementation and operation of the SVT program. In the Commission's view, competitive markets are not perfect, and CUB has identified some of the potential problems that may be encountered in competitive markets. Regulation is, however, an imperfect substitute for competition. Generally speaking, the Commission favors competition over regulation where feasible.

In this instance, the Commission's review of the record contains a sufficient showing that the potential benefits of an SVT program in AIC's service territory, while not certain, are likely. SVT programs in Illinois have been the subject of discussion, experimentation and implementation. The Commission has concerns about the missteps by certain gas suppliers in the Northern Illinois market, and believes additional consumer protections are necessary to prevent the same types of marketing abuses in Ameren territory. While recent amendments to the Alternative Gas Supplier Law provide additional layers of scrutiny to the ARG certification process, these provisions do not directly address the severity of the problems seen with the door-to-door sales model and its potential for customer confusion and/or misleading marketing. Arguably, the time for further debate has passed with regard to the AIC territory. The Commission concludes that it is in the public interest to order AIC to implement an SVT program at this time, but with the additional consumer protections discussed below.

~~If the Commission decides that SVT for AIC is lawful and in the public interest, CUB insists~~ As CUB suggests, the Commission must address the issues associated with consumer protection in light of experience in other service territories prior to ordering implementation. ~~Among other suggestions,~~ CUB specifically recommends that the Commission mandate three consumer protections in its order in this proceeding, if the Commission decides to proceed with an SVT program:

1. A customer shall be absolved from paying any termination fees if, prior to the due date of their first bill, they notify the supplier that they are terminating the contract.
2. When a customer has accepted service from a supplier after solicitation by a door-to-door salesperson, there shall be no termination fees assessed if the customer terminates during the first 6 billing cycles.
3. If a supplier's marketing materials include a price comparison of the supplier rate and the gas utility rate, the depiction of such comparison shall display at least three years of data in no greater than quarterly increments and shall also display the supplier's offered price for the same or equivalent product(s) or service(s) for each of the same increments.

ICEA/RESA and RGS believe CUB's proposed customer protections are unnecessary in light of provisions in the Act that protect customers and the alleged decrease in customer complaints regarding existing SVT programs in Illinois. ICEA/RESA and RGS also suggest that any customer protections should have been a part of the workshop process and need not be considered in this proceeding. ICEA/RESA also complain that CUB did not offer its specific recommendations until rebuttal testimony. Neither AIC nor Staff take an explicit position regarding CUB's proposed customer protections.

~~The Commission appreciates the frustration expressed by ICEA/RESA and RGS over CUB's choice not participate more fully in the workshop conducted pursuant to the order in Docket No. 11-0282. The Commission believes participation by CUB on consumer protection and other issues would have been beneficial to the process. From a legal standpoint, however, notes that CUB's failure to do so participation in the workshops is not an issue in this docket, and~~ The breadth or scope of workshop discussions does not restrict Commission consideration of important issues before it, and a positions party's take in workshops do not constitute a waiver or forfeiture by CUB by any

party of an opportunity available to other parties in this proceeding to address any and all SVT issues before the Commission.

As noted above, ICEA/RESA also complain that CUB waited until its rebuttal testimony to identify the consumer-protection measures it wants imposed, which deprived other parties of an opportunity to present testimony in response.

ICEA/RESA and RGS also contend that protections for residential and small-volume non-residential natural gas customers are now contained in Section 19-115 of the Act, and important provisions relating to matters such as customer switching, customer complaints, marketing, early termination fees, and rescission rights. They also state the events cited by CUB in support of its recommendations preceded the statutory adoption of these statutory protections.

Having reviewed the positions of the parties, the Commission finds that, in light of the experience in Northern Illinois, the record does not indicate why customers would be inadequately protected unless the statutory protections referenced by ICEA/RESA and RGS are supplemented by the three measures proposed by CUB are reasonable and appropriate supplements to the existing statutory protections and are hereby adopted. ~~With respect to CUB's argument that n~~Neither ICEA/RESA nor RGS provided evidence demonstrating that these proposals would be overly burdensome, too costly, difficult to implement or ineffective, ~~the Commission observes that~~ While the three consumer protection measures identified above first appeared in CUB's rebuttal testimony; ~~therefore,~~ ICEA/RESA and RGS ~~did not have~~ had sufficient an opportunity to file rebut such evidence at the hearing and chose not to cross-examine Mr. Cohen. In any event, the Commission finds that the three measures at issue are ~~not~~ supported by the record and will ~~not~~ be adopted at this time. ~~Whether or to what extent they could be addressed in an SVT tariff proceeding is an issue not reached in this Order.~~

CUB also recommends that OMRD be ordered to track costs and benefits of retail gas choice in the AIC service territories and report annually on them to the Commission in a public document. CUB suggests that the report should also include information about the extent and effectiveness of competition in the AIC residential gas markets, including the number of customers who have switched to alternative suppliers, the prices and terms of supplier contract offers, the relevant utility price to compare for the same period, the number and nature of complaints to the Commission

regarding each supplier, and other information deemed appropriate by the Commission. CUB claims this information is critical to a policy decision to move forward with SVT, because the putative benefits of SVT are speculative while the costs are real and substantial, as is the potential for customer confusion and/or misleading marketing. According to CUB, SVT would be an experimental program, and its results over time should be carefully scrutinized. In order to consider whether program changes are necessary to improve the effectiveness of competition and the benefits to customers, CUB recommends that the Order include a Commission review of SVT after 24 months of operation.

Finally, CUB believes the issue of POR should be further explored in the tariff proceeding that is filed subsequent to a Commission determination to go forward with SVT in Ameren territory. AIC believes a POR program is an important aspect of a successful SVT program and the only aspect of the program that needs further exploration is the discount rate to be applied. Both AIC and RGS object to CUB's suggestion that the need for a POR needs to be revisited.

ICEA/RESA argue that AIC should separately track uncollectibles data for SVT and sales customers and should apply the resulting different rates to each customer group. ICEA/RESA concede to using a single rate for both customer classes at startup, although they argue that this should be revisited after 12 months of SVT program experience and the SVT program participation is 20% of eligible customers. Staff disagrees that SVT customers should necessarily have different discount/uncollectible percentages.

The Commission concludes that the record supports a finding that a POR program should be implemented in addition to the SVT program. The Commission believes there is ample evidence that a POR program enhances the success of a successful competitive program. With respect to the discount rate, the Commission finds that at the present time, the position of ICEA/RESA to use a single rate for both customer classes at the startup of the POR program is reasonable. To the extent that issue needs to be revisited in the future, the Commission will do so.

In reviewing CUB's recommendations, the Commission notes that it is approving the implementation of an SVT program for AIC and it is not an experimental program. Additionally, given that OMRD will be tracking and reporting to the Commission on an annual basis, the Commission believes there is no need to schedule a Commission review of the SVT program after 24 months of

operation. In the event and to the extent changes in the SEVT program or even termination of it are warranted, these are actions the Commission may take at any appropriate time. With regard to the remainder of CUB's recommendations for OMRD to track and report on AIC's SVT program, the Commission finds them to be reasonable and they are hereby adopted.

With respect to Rider GTA, AIC claims this rider is necessary to ensure that customers who remain on sales service -- customers who have not switched to SVT -- are not disadvantaged. AIC says Rider GTA is also necessary to charge the costs caused by switching from the sales service to alternative gas supply to the appropriate customers. Rider GTA charges SVT customers for gas supply costs incurred when AIC needs to liquidate gas contracts because those customers will be served by another supplier. Without Rider GTA, AIC states that the sales customers will bear the costs associated with liquidating gas supply contracts that are no longer required due to sales customers switching to SVT.

Given that Rider SVT will not become operational for a year and a half, Staff suggests AIC may not need Rider GTA, since AIC may be able to adjust its portfolio to accommodate SVT service. It appears to the Commission that Staff and AIC agree that the underlying purpose of Rider GTA is worthy. While Staff claims Rider GTA may not be necessary, it does not appear to actually recommend that the Commission reject it. In any event, the Commission approves the adoption of Rider GTA. In the event it becomes unnecessary, the situation can be addressed in the future.

ICEA/RESA proposes that transportation customers be subject to Rider GTA for only one month, since the PGA is adjusted monthly. AIC objects to this proposal and argues that gas contracts are not one-month contracts, so there is no correspondence between how often the PGA rate is adjusted and the term length in the portfolio's contracts. Staff agrees with AIC, and recommends that the Commission reject ICEA/RESA's proposal. While Staff does not believe that AIC has demonstrated that Rider GTA is needed, it agrees that a sunset provision is appropriate.

Having found that Rider GTA is necessary and should be implemented, the Commission rejects ICEA/RESA's proposal and adopts AIC's proposed three-year sunset provision beginning with the start of the SVT program. Again, to the extent Rider GTA needs to be revisited or becomes unnecessary, that situation can be addressed in the future.

Staff takes issue with certain language AIC proposes to include, in Rider PGA, references the annual reconciliations associated with Riders GTA and GSIC. According to Staff, the placement of the language, and the language itself, would give the impression that the reconciliations of the Riders are part of the Rider PGA reconciliation, which has not been established.

AIC claims Staff misses the intent regarding AIC's references to Riders GTA and GSIC in Rider PGA. Staff asserts the references to the annual reconciliations for the Riders GTA and GSIC found in Rider PGA suggest that they must be included in the PGA reconciliation. According to AIC, the actual language is just the opposite; it explicitly requires that the Rider PGA reconciliation statement account for the differences associated with Riders GTA and GSIC, not that they be included. AIC insists that without the Rider PGA language, the threat of unintended over- or under-recoveries in the Rider PGA reconciliation exists.

Having reviewed the arguments, it is not clear to the Commission why the two parties were unable to reach an agreement on an issue such as this. In any event, to be clear, the Commission finds that regardless of the language in the tariffs, neither costs nor revenues associated with Riders GTA and GSIC shall flow through Rider PGA. Additionally, there shall be separate reconciliations for Rider PGA, Rider GTA, and Rider GSIC. Given the clarifications contained herein, the Commission finds it acceptable for AIC to include its proposed language in Rider PGA.

Another concern expressed by Staff is that under the draft tariffs, pipeline penalties are assessed only on Rider S and Rider T customers. Staff argued SVT customers should not be excluded from paying the penalties regardless of the situation or cause of the penalty. ICEA/RESA disagreed, arguing that pipeline penalties incurred by SVT suppliers that are assigned pipeline and storage assets are assessed directly to AGS by the pipeline in question. ICEA/RESA also assert the SVT Supplier Terms and Conditions already provide that any such penalty be passed through to the responsible supplier. ICEA/RESA believes whether to pass such penalties on to their customers should at that point be at the discretion of the AGS. AIC takes no position on this issue.

The Commission also notes that while Staff's briefs indicate that Staff remains concerned with how pipeline penalties are allocated between customers and how SVT customers are assessed any penalties, it does not make a specific recommendation. In any event, the Commission believes that as long as pipeline penalties

are properly allocated to Rider SVT suppliers, other customers are not adversely affected. As a result, the Commission finds ICEA/RESA's position to be reasonable and it is adopted.

The Commission also observes, as indicated above, that the "Agreed upon Briefing Outline" filed by the Parties identifies a number of "Resolved [SVT] Issues." To the extent there are issues identified as "resolved" that are actually in dispute, and are not otherwise decided above, they can be addressed in a later proceeding.

One of the "resolved issues" is identified as "SVT Program Separate Proceeding," sometimes referred to as a tariff proceeding. AIC shall file tariffs consistent with the findings of this Order. As agreed by all interested parties, the Commission will suspend such tariffs and allow the parties to resolve all remaining issues relating to the SVT Program.

X. CONCLUSION

WHEREFORE, for the reasons set forth above, as well as those in CUB's Initial and Reply Briefs, CUB respectfully request that the Commission adopt the revisions to the Proposed Order contained in this Brief on Exceptions and adjust AIC's revenue requirement and rate design accordingly.

Dated: November 22, 2013

Respectfully Submitted,

THE CITIZENS UTILITY BOARD



Julie L. Soderna, Director of Litigation
Christie Hicks, Senior Attorney
CITIZENS UTILITY BOARD
309 W. Washington, Ste. 800
Chicago, IL 60606
(312) 263-4282
(312) 263-4329 Fax
jsoderna@citizensutilityboard.org